

# In the United States Court of Federal Claims

No. 18-1784C

(Filed: November 15, 2019)

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**ROBERT J. LABONTE JR.,**

*Plaintiff,*

**v.**

**UNITED STATES,**

*Defendant.*

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## **ORDER**

In preparation for the hearing on the pending dispositive cross-motions scheduled for December 3, 2019, at 2:30 p.m., in addition to the other points the parties wish to present, the Court directs:

- 1) the plaintiff to be prepared to focus his argument on the threshold question of why this Court may exercise jurisdiction over this case; and
- 2) the defendant to be prepared to explain why, in the event the Court finds it has jurisdiction, the case should not be remanded for a new medical opinion in light of the apparent failure of Dr. Doane to consider evidence outside the plaintiff's Army medical records, despite the plain language of 10 U.S.C. § 1552(h).

It is so **ORDERED**.

s/ Richard A. Hertling

**Richard A. Hertling**

**Judge**